

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Larry B. Gray et al.

Serial No. : 09/665,668

Art Unit: 3731

Filed : September 20, 2000

Examiner: V.Q. Bui

For : AXIALLY FLEXIBLE STENT

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January 17, 2006

(Date of Deposit)

Paul A. Coletti

(Name of applicant, assignee, or Registered Representative)

/Paul A. Coletti/

(Signature)

January 17, 2006

(Date of Signature)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Dear Sir:

Pursuant to 37 C.F.R. ~~§~~1.56 and in accordance with 37  
C.F.R. ~~§§~~1.97-1.98, information relating to the above-identified  
application is hereby disclosed. Inclusion of information in  
this statement is not to be construed as an admission that this  
information is material as that term is defined in 37 C.F.R.  
~~§~~1.56(b).

Applicant(s) reserve(s) the right to establish the  
patentability of the claimed invention over any of the  
information provided herewith, and/or to prove that this  
information may not be prior art, and/or to prove that this

information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist.

☐ In accordance with §1.97(b), since this Information Disclosure Statement is being filed either within three months of the filing date of the above-identified national application (other than a continued prosecution application under §1.53(d)), within three months of the date of entry into the national stage of the above identified application as set forth in §1.491, or before the mailing date of a first Office Action on the merits of the above-identified application, or before the mailing date of a first Office Action after the filing of a request for continued examination under §1.114, no additional fee is required.

☐ In accordance with §1.129(a), this Information Disclosure Statement is being filed in connection with ☐ the first or ☐ second After Final Submission, therefore:

- ☐ Statement in Accordance with §1.97(e) (attached); or
- ☐ Please charge Deposit Account No. 10-0750/JJI-49USCNT/PAC the fee of \$180.00 as set forth in §1.17(p).

☒ In accordance with §1.97(c), this Information Disclosure Statement is being filed after the period set forth in §1.97(b) above but before the mailing date of either a Final Action under §1.113 or a Notice of Allowance under §1.311, or an

action that otherwise closes prosecution and that it is accompanied by one of:

- ☐ Statement in Accordance with **§1.97(e)** (attached); or
- ☒ Please charge Deposit Account No. 10-0750/JJI-49USCNT/PAC the fee of \$180.00 as set forth in **§1.17(p)**.

☐ In accordance with **§1.97(d)**, this Information Disclosure Statement is being filed after the mailing date of either a Final Action under **§1.113** or a Notice of Allowance under **§1.311** but before the payment of the Issue Fee. Applicant(s) hereby petition(s) for consideration of this Information Disclosure Statement. Included are: Statement in Accordance with **§1.97(e)** as set forth below and the fee of \$180.00 as set forth in **§1.17(p)**.

☒ Copies of each of the references listed on the attached Form PTO-1449 are enclosed herewith.

☐ Copies of references listed on the attached Form PTO-1449 are enclosed herewith EXCEPT THAT:

- ☐ In view of the voluminous nature of references [list as appropriate], and the likelihood that these references are available to the Examiner, copies are not enclosed herewith.
- ☐ If any of the foregoing publications are not available to the Examiner, Applicant will endeavor to supply copies at the Examiner's request.

☐ Copies of only foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98 (a) (2).

☒ There are no listed references which are not in the English language.

☐ The relevance of those listed references which are not in the English language is as follows:

☐ Attached are copies of search report(s) from corresponding patent application(s), which are listed on the attached Submission Under MPEP 609 D.

☐ Attached are the following non-published pending patent applications which may be deemed relevant, which are listed on the attached Submission Under MPEP 609 D.

#### **REMARKS**

These documents are non-confidential publications and surround claim construction and other matters in an associated action, Cordis Corporation v. Boston Scientific Corporation, in which a jury found infringement and validity of the grandparent of the current application, U.S. Patent No. 5,895,406. If the Examiner would like any further information about this lawsuit, Applicant's attorney will be happy to provide it. While the application is currently at the Appeal Board, the Examiner is nonetheless requested to consider each of the references and to signify that they have been considered by initialing the enclosed PTO for A1449.

Please charge any deficiency or credit any overpayment to  
Deposit Account No. 10-0750/JJI0049USCNT/PAC. This form is  
submitted in triplicate.

Respectfully submitted,

/Paul A. Coletti/  
Paul A. Coletti  
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DATED: January 17, 2006

Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 1

<b>Application Number</b>	09/665,668
<b>Filing Date</b>	September 20, 2000
<b>First Named Inventor</b>	Larry B. Gray et al.
<b>Group Art Unit</b>	3731
<b>Examiner Name</b>	V.Q. Bui
<b>Attorney Docket Number</b>	JJI0049USCNT

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS			
Examiner's Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T <sup>2</sup>
		Cordis Corporation v. Boston Scientific Corporation and Scimed Life Systems, Inc., Civil Action No. 03-027-SLR, District of Delaware, Memorandum and Order construing the disputed claim language (Gray '406 patent at pp. 1-4)	
		Cordis Corporation v. Boston Scientific Corporation and Scimed Life Systems, Inc., Civil Action No. 03-027-SLR, District of Delaware, Jury verdict: Cordis Corp. v. Boston Scientific (C.A. No. 03-027-SLR)	
		Cordis Corporation v. Boston Scientific Corporation and Scimed Life Systems, Inc., Civil Action No. 03-027-SLR, District of Delaware, Opening Brief in Support of BSC's Motion for Judgment as a Matter of Law or, in the Alternative, a New Trial on the Invalidity of the Gray '406 Patent	
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Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Unique citation designation number. <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

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PTO/SB/08A (08-00)

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Group Art Unit	3731
Examiner Name	V.Q. Bui
Attorney Docket Number	JJI0049USCNT

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS			
Examiner's Initials*	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published	T <sup>2</sup>
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